

APPEAL NO. 022069
FILED OCTOBER 3, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 22, 2002. With respect to the issues before him, the hearing officer determined that the compensable injury of _____, includes an aggravation of the degenerative joint disease in the claimant's right knee and that the respondent (claimant) had disability, as a result of his compensable injury, from November 13, 2001, through the date of the hearing. In its appeal, the appellant (carrier) argues that, as a matter of law, the aggravation of the degenerative joint disease in the claimant's right knee is not compensable. In the alternative, the carrier argues that the hearing officer's injury and disability determinations are against the great weight of the evidence. The appeal file does not contain a response to the carrier's appeal from the claimant.

DECISION

Affirmed.

Initially, we consider the carrier's argument that as a matter of law the degenerative joint disease in the claimant's right knee is not compensable. We find no merit in this assertion. In Peterson v. Continental Cas. Co., 997 S.W.2d 893 (Tex. App.-Houston [1st Dist.] 1999, no pet.), the court specifically rejected a similar argument advanced by a carrier and determined that the aggravation of a preexisting condition in the course and scope of employment is a compensable injury under the 1989 Act.

The hearing officer did not err in determining that the claimant's compensable injury included an aggravation of the degenerative joint disease in the claimant's right knee and that the claimant had disability, as a result of his compensable injury, from November 13, 2001, through the date of the hearing. Those issues presented questions of fact for the hearing officer. Section 410.165(a) provides that the hearing officer is the sole judge of the weight and credibility of the evidence. There was conflicting evidence on the issues. The hearing officer was acting within his province as the fact finder in determining that the claimant sustained his burden of proving that his compensable injury included the degenerative joint disease and that he had disability for the period found. Nothing in our review of the record demonstrates that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb those determinations on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Margaret L. Turner
Appeals Judge